

INTER-OFFICE COMMUNICATIONS

Palm Beach County, Florida

TO: John Sansbury, County Administrator
Lisa Heasley, County Attorney's Office
Herb Kahlert, County Engineer
David Blutworth, State Attorney
Joy Shearer, Asst. Attorney General
Captain Cook, Sheriff's Dept. -Civil
Frank Schulz, Sheriff's Office
Bob Basehart, Planning, Zoning & Bldg.
Bob Palchanis, Building Division, Director
Gordon Selfridge, Assistant County Attorney
Patty Young -4th District Court of Appeals
Law Library

DATE: October 22, 1985

(2) County Library
Bruce Pelly, PBIA
Kathleen Ruane, PBIA

FROM: John W. Dams, Chief Deputy Clerk

RE: PALM BEACH COUNTY ORDINANCE DISTRIBUTION

ORDINANCE NO. 85-35

TITLE REFERENCE:

AN ORDINANCE AMENDING ORDINANCE
NO. 70-1, AS AMENDED, BY ADDING
A NEW RULE TO THE RULES AND REGULATIONS
GOVERNING PALM BEACH INTERNATIONAL
AIRPORT, TO PROHIBIT SCHEDULED DEPARTURES
OF CERTAIN, NOISIER AIRCRAFT FROM
PALM BEACH INTERNATIONAL AIRPORT
BETWEEN THE HOURS OF 10:00 P.M. AND
7:00 A.M.; BY PROVIDING FOR PERIODIC
REVIEW OF THE NEW RULE; AND BY PROVIDING
AN EFFECTIVE DATE.

Attached is a copy of the above referenced Ordinance of Palm Beach
County. \ This Ordinance has been filed with Florida Department of State
and forwarded to Municipal Code Corporation for codification. The
effective date is June 1, 1986.

Signed


Deputy Clerk

JWD:

Attachment

* cc: Commissioners, BCC
Clerk
Minutes

*If a complete copy of ordinance is needed, please advise this office
and we will be happy to provide a copy.

AN ORDINANCE AMENDING ORDINANCE NO. 70-1, AS AMENDED, BY ADDING A NEW RULE TO THE RULES AND REGULATIONS GOVERNING PALM BEACH INTERNATIONAL AIRPORT, TO PROHIBIT SCHEDULED DEPARTURES OF CERTAIN, NOISIER AIRCRAFT FROM PALM BEACH INTERNATIONAL AIRPORT BETWEEN THE HOURS OF 10:00 P.M. AND 7:00 A.M.; BY PROVIDING FOR PERIODIC REVIEW OF THE NEW RULE; AND BY PROVIDING AN EFFECTIVE DATE.

WHEREAS, Palm Beach County is the proprietor of Palm Beach International Airport ("PBIA"), and

WHEREAS, complaints and litigation by residents of the communities around PBIA, regarding noise impacts of aircraft operating at PBIA, are a concern to the County, and

WHEREAS, the County's consultants and airport staff have conducted a thorough Noise Abatement and Mitigation Study, with extensive participation by citizens of the noise-affected communities and by representatives of the aviation industry, which study has recommended certain operational controls to lessen the impact of aircraft noise in the communities around PBIA, and

WHEREAS, the County's consultants, airport staff, and the Board of County Commissioners deem the controls imposed by this ordinance to be necessary to achieve the noise abatement goal established by the Development Order for PBIA, as established by Palm Beach County Resolution No. R-82-199, and, together with the other measures recommended by the Noise Abatement and Mitigation Study, to be the most efficient means of achieving that goal with the least incidental impact on commerce, and

WHEREAS, public comments received from citizens during the public input phases of the Noise Abatement and Mitigation study have confirmed that residents of the communities around PBIA are most sensitive to night

departures of aircraft, and it appears that a restriction upon such departures is an effective and necessary part of the County's noise abatement and mitigation program, and

WHEREAS, the Board of County Commissioners finds this ordinance to be in the best interests of the citizens of Palm Beach County,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA:

Section 1. Section VII(L) of the Rules and Regulations governing PBIA, as previously enacted by Ordinance No. 70-1, as amended, is hereby further amended by adding thereto the following new rule subsection, to be numbered 8:

"8. Nighttime noise limitations.

"(a) Definitions: As used in this rule, the following terms shall have the following meanings:

"(1) 'Director' shall mean the Director of the Department of Airports, or such other employee of the Department of Airports as the Director may from time to time designate in writing to carry out the duties of the Director stated in this Rule.

"(2) 'Airplane' shall mean an engine-driven, fixed-wing aircraft heavier than air, that is supported in flight by the dynamic reaction of the air against its wings.

"(3) 'Stage 3 airplane' shall have the meaning stated in Section 36.1(f), Title 14, Code of Federal Regulations, as such section exists on the date this Rule is enacted by ordinance.

"(4) 'Stage 3 noise level' shall mean a takeoff noise level at or below the takeoff noise limits stated in Section C36.5(a)(3)(i), Appendix C, Title 14, Part 36, Code of Federal Regulations, as

that Section exists on the date this Rule is enacted by ordinance, determined without regard to the tradeoffs stated in Section C36.5(b) of said Appendix.

"(5) 'Compliant airplane' shall mean an airplane which either (i) is a Stage 3 airplane, or (ii) emits a Stage 3 noise level as defined in this rule.

"(6) 'Departure' of an airplane shall mean moving away from the gate or other parked or stationary position in preparation for takeoff.

"(7) 'Public' airplane shall mean an airplane used only in the service of a government or a political subdivision. It shall not include any government-owned airplane engaged in carrying persons or property for commercial purposes.

"(b) Except as provided in sub-paragraph (d) below, no person operating regularly-scheduled international, interstate, or intrastate air carrier service to and from Palm Beach International Airport may schedule the departure of any airplane to occur from Palm Beach International Airport between the hours of 10:00 o'clock P.M. and 7:00 o'clock A.M., unless such airplane is a compliant airplane. Subject to sub-paragraph (e) below, it shall not be deemed a violation of this rule to substitute a non-compliant airplane for a compliant airplane scheduled to depart between 10:00 o'clock P.M. and 7:00 o'clock A.M., when such substitution is made necessary and unavoidable by a mechanical failure or unanticipated weather delay.

"(c) Except as provided in sub-paragraph (d) below, no other person may file a flight plan calling for departure of any airplane, or otherwise schedule or cause the departure of any airplane from Palm Beach

International Airport between the hours of 10:00 o'clock P.M. and 7:00 o'clock A.M., unless such airplane is a compliant airplane.

"(d) Exceptions:

"(1) Any air carrier or other person wishing to schedule or conduct departures of an airplane otherwise prohibited by this rule may do so upon furnishing to the Director (a) an airworthiness certificate for each such airplane evidencing that such airplane has been certified or recertified by the Federal Aviation Administration to operate only at a particular maximum gross weight or in a particular configuration, and (b) evidence satisfactory to the Director that such airplane will be a compliant airplane when operated at such gross weight or in such configuration.

"(2) In the case of a genuine medical emergency, an air carrier or other person may conduct an operation otherwise prohibited by this rule. Such air carrier or other person shall notify the Department of Airports of the medical emergency before conducting the operation, if at all possible, and shall in all cases complete and submit a form furnished by the Department stating the details of such medical emergency, not later than the close of the next business day after the operation is conducted. All air carriers and other persons conducting any operation under this exception shall make available to the Department of Airports upon reasonable request all records and documentation relating to each medical emergency.

"(3) Military and public airplanes shall not be subject to this rule.

"(e) For purposes of this rule, an air carrier airplane departure is "scheduled" at the time of the airplane is scheduled to leave the gate, based upon the current Official Airline Guide. It shall be

the responsibility of all air carriers and other persons to schedule departures realistically so as to comply substantially with the intent of this rule: the avoidance of departures after 10:00 o'clock P.M. and before 7:00 o'clock A.M. of non-compliant airplanes. If the Director determines that any air carrier or other person habitually violates this rule, the Director shall prohibit such air carrier or other person from operating the scheduled flight which has caused the habitual violation until such flight is rescheduled to a different time adequate in the Director's judgment to end the habitual violation. As used in this subsection, a person will be deemed to 'habitually violate' this rule when: (1) in the case of an air carrier, a particular flight, although scheduled to depart before 10:00 o'clock P.M., or although scheduled to depart after 10:00 o'clock P.M. using a compliant airplane, actually departs after 10:00 o'clock P.M. with a non-compliant airplane on 25 per cent or more of the occasions on which it is scheduled in any calendar month, and, (2) in the case of any other person not operating regularly-scheduled air carrier operations, such person conducts prohibited departures of noncompliant airplanes on more than one occasion in any calendar month.

"(f) There shall be no criminal penalties for violation of this rule."

Section 2. Not later than July 1, 1987, and each succeeding July 1 thereafter, the Director shall submit to the Board of County Commissioners a report stating the recommendations, if any, of the Department of Airports, for revising the Rule enacted by this Ordinance to reflect changes in circumstances during the preceding

year. The Director shall also notify the Board of County Commissioners of any amendment to the Code of Federal Regulations which affects the subject matter of such Rules, or of any amendment to the County's F.A.R. Part 150 Noise Compatibility Program, as soon as practical after such amendment.

Section 3. If any portion of this ordinance shall be adjudicated invalid for any reason, it is the intent of the Board of County Commissioners that the remaining portions of this Ordinance shall nevertheless be given effect.

Section 4. This ordinance shall take effect on June 1, 1986.

APPROVED AND ADOPTED by the Board of County Commissioners by Palm Beach County, Florida, on the 1st day of October, 1985.

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

BY: [Signature]
Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY [Signature]
County Attorney

JOHN B. DUNKLE, CLERK
Board of County Commissioners

By Kathryn Mazur Miller
DEPUTY CLERK

Acknowledgement by the Department of State of the State of Florida on this the 10th day of October, 1985.

Acknowledgement from the Department of State received on the 15th day of October, 1985, at 2:04 p.m., and filed in the Office of the Clerk of the Board of County Commissioners of Palm Beach County, Florida.

EFFECTIVE DATE: June 1, 1986